

Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

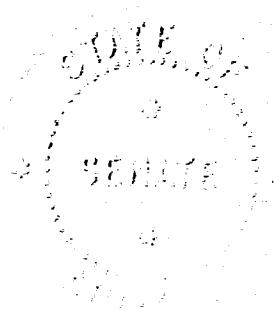
CHAPTER 49

SENATE BILL 1086

AN ACT

AMENDING SECTIONS 11-483, 11-484 AND 16-153, ARIZONA REVISED STATUTES;
RELATING TO RECORDS ACCESS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 11-483, Arizona Revised Statutes, is amended to read:

11-483. Records maintained by county recorder; confidentiality; definitions

A. Notwithstanding any other provision of this article, in counties with a population of more than five hundred thousand persons a peace officer, justice, judge, commissioner, public defender, ~~or~~ prosecutor, VICTIM OF DOMESTIC VIOLENCE OR STALKING OR PERSON WHO IS PROTECTED UNDER AN ORDER OF PROTECTION OR INJUNCTION AGAINST HARASSMENT may request that the general public be prohibited from accessing the unique identifier and the recording date contained in indexes of recorded instruments maintained by the county recorder and may request the recorder to prohibit access to that person's residential address and telephone number contained in instruments or writings recorded by the county recorder and made available on the internet.

B. A peace officer, justice, judge, commissioner, public defender, ~~or~~ prosecutor, VICTIM OF DOMESTIC VIOLENCE OR STALKING OR PERSON WHO IS PROTECTED UNDER AN ORDER OF PROTECTION OR INJUNCTION AGAINST HARASSMENT may request this action by filing an affidavit that states all of the following on an application form developed by the administrative office of the courts in agreement with an association of counties, an organization of peace officers and the motor vehicle division of the department of transportation:

1. The person's full legal name and residential address.

2. The full legal description and parcel number of the person's property.

3. The position the person currently holds and a description of the person's duties, EXCEPT THAT A PERSON WHO IS A VICTIM OF DOMESTIC VIOLENCE OR STALKING SHALL INSTEAD STATE THAT THE PERSON IS A VICTIM OF DOMESTIC VIOLENCE OR STALKING AND SHALL ATTACH DOCUMENTATION SUPPORTING THE CLAIM, INCLUDING A TRUE AND CORRECT COPY OF ANY OF THE FOLLOWING:

(a) FINDINGS FROM A COURT OF COMPETENT JURISDICTION.

(b) POLICE REPORTS.

(c) MEDICAL RECORDS.

(d) CHILD PROTECTIVE SERVICES RECORDS.

(e) DOMESTIC VIOLENCE SHELTER RECORDS.

(f) SCHOOL RECORDS.

4. The reasons the person reasonably believes that the person's life or safety or that of another person is in danger and that restricting access pursuant to this section will serve to reduce the danger.

5. The document locator number and recording date of each instrument for which the person requests access restriction pursuant to this section.

6. A copy of pages from each instrument that includes the document locator number and the person's full legal name and residential address or full legal name and telephone number.

1 C. If a peace officer, JUSTICE, JUDGE, COMMISSIONER, public defender,
2 ~~or~~ prosecutor, VICTIM OF DOMESTIC VIOLENCE OR STALKING OR PERSON WHO IS
3 PROTECTED UNDER AN ORDER OF PROTECTION OR INJUNCTION AGAINST HARASSMENT is
4 also requesting pursuant to section 11-484 that the general public be
5 prohibited from accessing records maintained by the county assessor and
6 county treasurer, the peace officer, JUSTICE, JUDGE, COMMISSIONER, public
7 defender, ~~or~~ prosecutor, VICTIM OF DOMESTIC VIOLENCE OR STALKING OR PERSON
8 WHO IS PROTECTED UNDER AN ORDER OF PROTECTION OR INJUNCTION AGAINST
9 HARASSMENT may combine the request pursuant to subsection B of this section
10 with the request pursuant to section 11-484 by filing one affidavit. ~~with~~
11 ~~the officer's commanding officer, or with the head of the prosecuting or~~
12 ~~public defender agency, as applicable, or that person's designee.~~ The
13 affidavit and subsequent action by the appropriate authorities shall meet all
14 of the requirements of this section and section 11-484.

15 D. The affidavit shall be filed with the presiding judge of the
16 superior court in the county in which the affiant resides. To prevent a
17 multiplicity of filings, a peace officer, public defender or prosecutor shall
18 deliver the affidavit to the peace officer's commanding officer, or to the
19 head of the prosecuting or public defender agency, as applicable, or that
20 person's designee, who shall file the affidavits at one time. In the absence
21 of an affidavit that contains a request for immediate action and that is
22 supported by facts justifying an earlier presentation, the commanding
23 officer, or the head of the prosecuting or public defender agency, as
24 applicable, or that person's designee, shall not file affidavits more often
25 than quarterly.

26 E. On receipt of an affidavit or affidavits, the presiding judge of
27 the superior court shall file with the clerk of the superior court a petition
28 on behalf of all requesting affiants. Each affidavit presented shall be
29 attached to the petition. In the absence of an affidavit that contains a
30 request for immediate action and that is supported by facts justifying an
31 earlier consideration, the presiding judge may accumulate affidavits and file
32 a petition at the end of each quarter.

33 F. The presiding judge of the superior court shall review the petition
34 and each attached affidavit to determine whether the action requested by each
35 affiant should be granted. If the presiding judge of the superior court
36 concludes that the action requested by the affiant will reduce a danger to
37 the life or safety of the affiant or another person, the presiding judge of
38 the superior court shall order that the recorder prohibit access for five
39 years to the affiant's residential address and telephone number contained in
40 instruments or writings recorded by the county recorder and made available on
41 the internet. If the presiding judge of the superior court concludes that
42 the affiant or another person is in actual danger of physical harm from a
43 person or persons with whom the affiant has had official dealings and that
44 action pursuant to this section will reduce a danger to the life or safety of
45 the affiant or another person, the presiding judge of the superior court

1 shall order that the general public be prohibited for five years from
2 accessing the unique identifier and the recording date contained in indexes
3 of recorded instruments maintained by the county recorder and identified
4 pursuant to subsection B of this section.

5 G. On motion to the court, if the presiding judge of the superior
6 court concludes that an instrument or writing recorded by the county recorder
7 has been redacted or sealed in error, that the original affiant no longer
8 lives at the address listed in the original affidavit, that the cause for the
9 original affidavit no longer exists or that temporary access to the
10 instrument or writing is needed, the presiding judge may temporarily stay or
11 permanently vacate all or part of the court order prohibiting public access
12 to the recorded instrument or writing.

13 H. On entry of the court order, the clerk of the superior court shall
14 file the court order and a copy of the affidavit required by subsection B of
15 this section with the county recorder. No more than ten days after the date
16 on which the county recorder receives the court order, the county recorder
17 shall restrict access to the information as required by subsection F of this
18 section.

19 I. If the court denies an affiant's request pursuant to this section,
20 the affiant may request a court hearing. The hearing shall be conducted by
21 the court in the county where the petition was filed.

22 J. The recorder shall remove the restrictions on all records
23 restricted pursuant to this section by January 5 in the year after the court
24 order expires.

25 K. To include subsequent recordings in the court order, the peace
26 officer, justice, judge, commissioner, public defender, ~~or~~ prosecutor, VICTIM
27 OF DOMESTIC VIOLENCE OR STALKING OR PERSON WHO IS PROTECTED UNDER AN ORDER OF
28 PROTECTION OR INJUNCTION AGAINST HARASSMENT shall present to the county
29 recorder at the time of recordation a certified copy of the court order. The
30 recorder shall ensure that public access shall be restricted pursuant to
31 subsection A of this section.

32 L. This section shall not be interpreted to restrict access to public
33 records for the purposes of perfecting a lien pursuant to title 12, chapter
34 9, article 2.

35 M. This section does not prohibit access to the records of the county
36 recorder by parties to the instrument, a title insurer, a title insurance
37 agent or an escrow agent licensed by the department of insurance or the
38 department of banking.

39 N. For the purposes of this section:

40 1. "Commissioner" means a commissioner of the superior court.

41 2. "Indexes" means only those indexes that are maintained by and
42 located in the office of the county recorder, that are accessed
43 electronically and that contain information beginning from and after January
44 1, 1987.

1 3. "Judge" means a judge of the United States district court, the
2 United States court of appeals, the United States magistrate court, the
3 United States bankruptcy court, the Arizona court of appeals, the superior
4 court or a municipal court.

5 4. "Justice" means a justice of the United States or Arizona supreme
6 court or a justice of the peace.

7 5. "Peace officer" means any person vested by law, or formerly vested
8 by law, with a duty to maintain public order and make arrests.

9 6. "Prosecutor" means a county attorney, a municipal prosecutor, the
10 attorney general or a United States attorney and includes an assistant or
11 deputy United States attorney, county attorney, municipal prosecutor or
12 attorney general.

13 7. "Public defender" means a federal public defender, county public
14 defender, county legal defender or county contract indigent defense counsel
15 and includes an assistant or deputy federal public defender, county public
16 defender or county legal defender.

17 8. "STALKING" MEANS THE COURSE OF CONDUCT PRESCRIBED IN SECTION
18 13-2923.

19 9. "VICTIM OF DOMESTIC VIOLENCE" MEANS A PERSON WHO IS A VICTIM OF AN
20 OFFENSE DEFINED IN SECTION 13-3601.

21 Sec. 2. Section 11-484, Arizona Revised Statutes, is amended to read:

22 11-484. Records maintained by county assessor and county
23 treasurer; redaction; definitions

24 A. Notwithstanding any other provision of this article, in counties
25 with a population of more than five hundred thousand persons a peace officer,
26 justice, judge, commissioner, public defender, ~~or~~ prosecutor, VICTIM OF
27 DOMESTIC VIOLENCE OR STALKING OR PERSON WHO IS PROTECTED UNDER AN ORDER OF
28 PROTECTION OR INJUNCTION AGAINST HARASSMENT may request that the general
29 public be prohibited from accessing that person's residential address and
30 telephone number that are contained in instruments, writings and information
31 maintained by the county assessor and the county treasurer.

32 B. A peace officer, justice, judge, commissioner, public defender, ~~or~~
33 prosecutor, VICTIM OF DOMESTIC VIOLENCE OR STALKING OR PERSON WHO IS
34 PROTECTED UNDER AN ORDER OF PROTECTION OR INJUNCTION AGAINST HARASSMENT may
35 request this action by filing an affidavit that states all of the following
36 on an application form developed by the administrative office of the courts
37 in agreement with an association of counties, an organization of peace
38 officers and the motor vehicle division of the department of transportation:

39 1. The person's full legal name and residential address.

40 2. The full legal description and parcel number of the person's
41 property.

42 3. The position the person currently holds and a description of the
43 person's duties, EXCEPT THAT A PERSON WHO IS A VICTIM OF DOMESTIC VIOLENCE OR
44 STALKING SHALL STATE THAT THE PERSON IS A VICTIM OF DOMESTIC VIOLENCE OR

1 STALKING AND SHALL ATTACH DOCUMENTATION SUPPORTING THE CLAIM, INCLUDING A
2 TRUE AND CORRECT COPY OF ANY OF THE FOLLOWING:

- 3 (a) FINDINGS FROM A COURT OF COMPETENT JURISDICTION.
- 4 (b) POLICE REPORTS.
- 5 (c) MEDICAL RECORDS.
- 6 (d) CHILD PROTECTIVE SERVICES RECORDS.
- 7 (e) DOMESTIC VIOLENCE SHELTER RECORDS.
- 8 (f) SCHOOL RECORDS.

9 4. The reasons the person reasonably believes that the person's life
10 or safety or that of another person is in danger and that redacting the
11 residential address and telephone number will serve to reduce the danger.

12 C. If a peace officer, JUSTICE, JUDGE, COMMISSIONER, public defender,
13 ~~or~~ prosecutor, VICTIM OF DOMESTIC VIOLENCE OR STALKING OR PERSON WHO IS
14 PROTECTED UNDER AN ORDER OF PROTECTION OR INJUNCTION AGAINST HARASSMENT is
15 also requesting pursuant to section 11-483 that the general public be
16 prohibited from accessing records maintained by the county recorder, the
17 peace officer, JUSTICE, JUDGE, COMMISSIONER, public defender, ~~or~~ prosecutor,
18 VICTIM OF DOMESTIC VIOLENCE OR STALKING OR PERSON WHO IS PROTECTED UNDER AN
19 ORDER OF PROTECTION OR INJUNCTION AGAINST HARASSMENT may combine the request
20 pursuant to subsection B of this section with the request pursuant to section
21 11-483 by filing one affidavit. ~~with the officer's commanding officer, or~~
22 ~~with the head of the prosecuting or public defender agency, as applicable, or~~
23 ~~that person's designee.~~ The affidavit and subsequent action by the
24 appropriate authorities shall meet all of the requirements of this section
25 and section 11-483.

26 D. The affidavit shall be filed with the presiding judge of the
27 superior court in the county in which the affiant resides. To prevent a
28 multiplicity of filings, a peace officer, public defender or prosecutor shall
29 deliver the affidavit to the peace officer's commanding officer, or to the
30 head of the prosecuting or public defender agency, as applicable, or that
31 person's designee, who shall file the affidavits at one time. In the absence
32 of an affidavit that contains a request for immediate action and that is
33 supported by facts justifying an earlier presentation, the commanding
34 officer, or the head of the prosecuting or public defender agency, as
35 applicable, or that person's designee, shall not file affidavits more often
36 than quarterly.

37 E. On receipt of an affidavit or affidavits, the presiding judge of
38 the superior court shall file with the clerk of the superior court a petition
39 on behalf of all requesting affiants. Each affidavit presented shall be
40 attached to the petition. In the absence of an affidavit that contains a
41 request for immediate action and that is supported by facts justifying an
42 earlier consideration, the presiding judge may accumulate affidavits and file
43 a petition at the end of each quarter.

44 F. The presiding judge of the superior court shall review the petition
45 and each attached affidavit to determine whether the action requested by each

1 affiant should be granted. If the presiding judge of the superior court
2 concludes that the action requested by the affiant will reduce a danger to
3 the life or safety of the affiant or another person, the presiding judge of
4 the superior court shall order the redaction of the affiant's residential
5 address and telephone number that are contained in instruments, writings and
6 information maintained by the county assessor and the county treasurer. The
7 redaction shall be in effect for five years.

8 G. On motion to the court, if the presiding judge of the superior
9 court concludes that an instrument or writing maintained by the county
10 assessor or the county treasurer has been redacted or sealed in error, that
11 the original affiant no longer lives at the address listed in the original
12 affidavit, that the cause for the original affidavit no longer exists or that
13 temporary access to the instrument or writing is needed, the presiding judge
14 may temporarily stay or permanently vacate all or part of the court order
15 prohibiting public access to the instrument or writing.

16 H. On entry of the court order, the clerk of the superior court shall
17 file the court order and a copy of the affidavit required by subsection B of
18 this section with the county assessor and the county treasurer. No more than
19 ten days after the date on which the county assessor and the county treasurer
20 receive the court order, the county assessor and the county treasurer shall
21 restrict access to the information as required by subsection F of this
22 section.

23 I. If the court denies an affiant's request pursuant to this section,
24 the affiant may request a court hearing. The hearing shall be conducted by
25 the court in the county where the petition was filed.

26 J. The county assessor and the county treasurer shall remove the
27 restrictions on all records that are redacted pursuant to this section by
28 January 5 in the year after the court order expires.

29 K. For the purposes of this section:

30 1. "Commissioner" means a commissioner of the superior court.

31 2. "Judge" means a judge of the United States district court, the
32 United States court of appeals, the United States magistrate court, the
33 United States bankruptcy court, the Arizona court of appeals, the superior
34 court or a municipal court.

35 3. "Justice" means a justice of the United States or Arizona supreme
36 court or a justice of the peace.

37 4. "Peace officer" means any person vested by law, or formerly vested
38 by law, with a duty to maintain public order and make arrests.

39 5. "Prosecutor" means a county attorney, a municipal prosecutor, the
40 attorney general or a United States attorney and includes an assistant or
41 deputy United States attorney, county attorney, municipal prosecutor or
42 attorney general.

43 6. "Public defender" means a federal public defender, county public
44 defender, county legal defender or county contract indigent defense counsel

1 and includes an assistant or deputy federal public defender, county public
2 defender or county legal defender.

3 7. "STALKING" MEANS THE COURSE OF CONDUCT PRESCRIBED IN SECTION
4 13-2923.

5 8. "VICTIM OF DOMESTIC VIOLENCE" MEANS A PERSON WHO IS A VICTIM OF AN
6 OFFENSE DEFINED IN SECTION 13-3601.

7 Sec. 3. Section 16-153, Arizona Revised Statutes, is amended to read:

8 16-153. Voter registration; confidentiality; definitions

9 A. Justices, judges, commissioners, peace officers, prosecutors,
10 public defenders, victims of domestic violence OR STALKING, persons who are
11 protected under an order of protection or injunction against harassment, and
12 any other registered voter who resides at the same residence address as the
13 justice, judge, commissioner, peace officer, prosecutor, public defender,
14 VICTIM OF DOMESTIC VIOLENCE OR STALKING or protected person, may request that
15 the general public be prohibited from accessing the residential address,
16 telephone number and voting precinct number contained in their voter
17 registration record.

18 B. Justices, judges, commissioners, prosecutors, public defenders,
19 peace officers or victims of domestic violence OR STALKING may request this
20 action by filing an affidavit that states all of the following on an
21 application form developed by the administrative office of the courts in
22 agreement with an association of counties and an organization of peace
23 officers:

24 1. The person's full legal name, residential address and date of
25 birth.

26 2. The position the person currently holds and a description of the
27 person's duties, except that a PERSON WHO IS A victim of domestic violence OR
28 STALKING shall instead state ~~they are~~ THAT THE PERSON IS a victim of domestic
29 violence OR STALKING and shall attach documentation supporting the claim,
30 including a true and correct copy of any of the following:

31 (a) Findings from a court of competent jurisdiction.

32 (b) Police reports.

33 (c) Medical records.

34 (d) Child protective services records.

35 (e) Domestic violence shelter records.

36 (f) School records.

37 3. The reasons for reasonably believing that the person's life or
38 safety or that of another person is in danger and that sealing the
39 residential address, telephone number and voting precinct number of the
40 person's voting record will serve to reduce the danger.

41 C. The affidavit shall be filed with the presiding judge of the
42 superior court in the county in which the affiant resides. To prevent a
43 multiplicity of filings, peace officers shall deliver the affidavit to their
44 commanding officer who shall file the affidavits at one time, prosecutors
45 shall deliver the affidavit to the head of the prosecuting agency or that

1 person's designee who shall file the affidavits at one time, and public
2 defenders shall deliver the affidavit to the head of the public defending
3 agency or that person's designee who shall file the affidavits at one
4 time. In the absence of an affidavit that contains a request for immediate
5 action and is supported by facts justifying an earlier presentation, the
6 commanding officer, the head of the prosecuting agency or that person's
7 designee or the head of the public defending agency or that person's designee
8 shall not file affidavits more often than quarterly.

9 D. Upon receipt of an affidavit or affidavits, the presiding judge of
10 the superior court shall file with the clerk of the superior court a petition
11 on behalf of all requesting ~~justices, judges, commissioners, prosecutors,~~
12 ~~public defenders and peace officers~~ AFFIANTS. The petition shall have
13 attached each affidavit presented. In the absence of an affidavit that
14 contains a request for immediate action and is supported by facts justifying
15 an earlier consideration, the presiding judge may accumulate affidavits and
16 file a petition at the end of each quarter.

17 E. The presiding judge of the superior court shall review the petition
18 and each attached affidavit to determine whether the action requested by each
19 affiant should be granted. The presiding judge of the superior court shall
20 order the sealing for five years of the information contained in the voter
21 record of the affiant and, on request, any other registered voter who resides
22 at the same residence address if the presiding judge concludes that this
23 action will reduce a danger to the life or safety of the affiant.

24 F. The recorder shall remove the restrictions on all voter records
25 submitted pursuant to subsection E of this section by January 5 in the year
26 after the court order expires.

27 G. Upon entry of the court order, the clerk of the superior court
28 shall file the court order with the county recorder. Upon receipt of the
29 court order the county recorder shall seal the voter registration of the
30 justices, judges, commissioners, prosecutors, public defenders, peace
31 officers and other persons listed in the court order no later than one
32 hundred twenty days from the date of receipt of the court order. The
33 information in the registration shall not be disclosed and is not a public
34 record.

35 H. If the court denies an affiant's requested sealing of the voter
36 registration record, the affiant may request a court hearing. The hearing
37 shall be conducted by the court where the petition was filed.

38 I. On motion to the court, if the presiding judge of the superior
39 court concludes that a voter registration record has been sealed in error or
40 that the cause for the original affidavit no longer exists, the presiding
41 judge may vacate the court order prohibiting public access to the voter
42 registration record.

43 J. Upon request by a person who is protected under an order of
44 protection or injunction against harassment and presentation of an order of
45 protection issued pursuant to section 13-3602, an injunction against

1 harassment issued pursuant to section 12-1809 or an order of protection or
2 injunction against harassment issued by a court in another state, the county
3 recorder shall seal the voter registration record of the person who is
4 protected and, on request, any other registered voter who resides at the
5 residence address of the protected person. The record shall be sealed no
6 later than one hundred twenty days from the date of receipt of the court
7 order. The information in the registration shall not be disclosed and is not
8 a public record.

9 K. For the purposes of this section:

10 ~~2.~~ 1. "Commissioner" means a commissioner of the superior court.

11 ~~1.~~ 2. "Domestic violence" has the same meaning as prescribed by IN
12 section 20-448.

13 3. "Judge" means a judge of the United States district court, the
14 United States court of appeals, the United States magistrate court, the
15 United States bankruptcy court, the Arizona court of appeals, the superior
16 court or a municipal court.

17 4. "Justice" means a justice of the United States or Arizona supreme
18 court or a justice of the peace.

19 5. "Prosecutor" means a United States attorney, a county attorney, a
20 municipal prosecutor or the attorney general and includes an assistant or
21 deputy United States attorney, county attorney, municipal prosecutor or
22 attorney general.

23 6. "Public defender" means a federal public defender, county public
24 defender, county legal defender or county contract indigent defense counsel
25 and includes an assistant or deputy federal public defender, county public
26 defender or county legal defender.

27 7. "STALKING" MEANS THE COURSE OF CONDUCT PRESCRIBED IN SECTION
28 13-2923.

29 8. "VICTIM OF DOMESTIC VIOLENCE" MEANS A PERSON WHO IS A VICTIM OF AN
30 OFFENSE DEFINED IN SECTION 13-3601.

APPROVED BY THE GOVERNOR APRIL 11, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2005.

Passed the House April 4, 2005

by the following vote: 51 Ayes,

4 Nays, 5 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate February 7, 2005

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5th day of April, 2005

at 2:15 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 11 day of

April, 2005,

at 10⁰⁵ o'clock A. M.

[Signature]
Governor of Arizona

S.B. 1086

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 11 day of April, 2005

at 1:35 o'clock P. M.

[Signature]
Secretary of State